IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO. 249 OF 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Appellant(s)
Versus
HARSHABEN JANAKKUMAR SONI & ORS. - Respondent(s)

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Appearance :
Shri Mitul K. Shelat for Appellant(s) .
None for Respondent(s).

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 21/08/2007

ORAL JUDGMENT

The Gujarat State Road Transport Corporation, being aggrieved by the award dated 10th May, 1990 passed by the learned

Motor Accident Claims Tribunal (Main), Vadodara in M.A.C.P. No.104 of 1986, is before this Court with a submission that the learned Tribunal below was wrong in holding the drivers of the buses owned by the appellant guilty of rashness and negligence.

2. The short facts necessary for disposal of the present appeal are that the deceased was a passenger travelling in S.T. Bus No. GTH-8537, when the said bus was overtaking S.T. Bus No. GRU-6269, in that process, each of the buses collided, which resulted into serious and grievous injuries to the deceased, the deceased ultimately succumbed to injuries.

3. Shri Mitul K. Shelat, learned Counsel for the appellant, submitted that the evidence available on the record would show that in fact, the deceased was negligent in alighting from the bus, he should not have alighted when he had seen that the bus was overtaking another bus. He submitted that the learned Tribunal below was unjustified in holding that the driver of S.T. Bus No. GRU-6269 was rash and negligent.

4. If I accept each and every argument raised by the learned Counsel for the appellant, then too, the facts would stare on the face that S.T. Bus No. GTU-6269 was stationed in the middle of the road and at

that point of time, yet another S.T. Bus No. GTH-8537 came and grazed the stationery bus. If the driver of S.T. Bus No. GRU-6269 was negligent in stationing the bus in the center of the road, then, the driver of S.T. Bus No. GTH-8537 was also to be held negligent because while trying to cross other bus, he did not care to see that the passengers were alighting from the said bus. If I hold that the driver of each of the buses was negligent to the extent of 50%, then too, 100% liability will have to be borne by the appellant, who owns both the buses.

5. Taking the case from the angle that negligence was committed by the driver of S.T. Bus No. GTH-8537 or that there was contributory negligence on the part of the drivers of both the buses, I am unable to hold that the learned Tribunal below was unjustified in making the award in favour of the claimants.

6. No other point was pressed. The appeal deserves to and is, accordingly, dismissed. Interim relief, if any, is vacated. No costs.

[R.S.Garg, J.]

*kamlesh**